

Assembly Bill No. 1108

CHAPTER 638

An act to amend Section 21083.9 of, and to add Sections 21098 and 21098.1 to, the Public Resources Code, relating to environmental protection.

[Approved by Governor September 17, 2002. Filed
with Secretary of State September 18, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1108, Pavley. Environmental quality: scoping meetings: military areas.

(1) The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on any project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds the project will not have that effect. CEQA also requires a lead agency to call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation, and for a project of statewide, regional, or areawide significance. The existing federal National Environmental Policy Act and existing federal regulations authorize a lead agency to hold a scoping meeting, and permit that meeting to be integrated with any other early planning meeting the agency holds on a project that is subject to the federal act.

This bill would provide that any scoping meeting that is conducted in the city or county in which a project is located pursuant to the NEPA is deemed to satisfy the state scoping meeting requirement with regard to projects of statewide, regional, or areawide significance, if the lead agency provided notice to interested parties in conformance with the existing state requirements. The bill would also impose additional requirements on a lead agency, if the United States Department of Defense or a military service, as defined, notifies that lead agency of the contact person and address for the military service and the specific boundaries of a low-level flight path, military impact zone, or special use airspace, as those terms are defined by the bill.

The bill would require the lead agency to submit notices to the military service if the project is within those boundaries and the project includes a general plan amendment, the project is of statewide, regional, or areawide significance, or the project is required to be referred to the

airport land use commission or appropriately designated body. The bill would exempt from those notification requirements specified hazardous waste response actions and corrective action orders. The bill would specify that a project's effect or potential effect on military activities would not itself constitute an adverse effect for the purposes of CEQA. By imposing additional duties on local lead agencies, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 21083.9 of the Public Resources Code is amended to read:

21083.9. (a) Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for either of the following:

(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

(2) A project of statewide, regional, or areawide significance.

(b) The lead agency shall provide notice of at least one scoping meeting held pursuant to paragraph (2) of subdivision (a) to all of the following:

(1) Any county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city.

(2) Any responsible agency.

(3) Any public agency that has jurisdiction by law with respect to the project.

(4) Any organization or individual who has filed a written request for the notice.

(c) For any entity, organization, or individual that is required to be provided notice of a lead agency public meeting, the requirement for notice of a scoping meeting pursuant to subdivision (b) may be met by including the notice of a scoping meeting in the public meeting notice.



(d) A scoping meeting that is held in the city or county within which the project is located pursuant to the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) and the regulations adopted pursuant to that act shall be deemed to satisfy the requirement that a scoping meeting be held for a project subject to paragraph (2) of subdivision (a) if the lead agency meets the notice requirements of subdivision (b) or subdivision (c).

SEC. 2. Section 21098 is added to the Public Resources Code, to read:

21098. (a) For the purposes of this section, the following terms have the following meanings:

(1) “Low-level flight path” includes any flight path for any aircraft owned, maintained, or that is under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, “Area Planning Military Training Routes: North and South America (AP/1B)” published by the United States National Imagery and Mapping Agency.

(2) “Military impact zone” includes any area, including airspace, that meets both of the following criteria:

(A) Is within two miles of a military installation, including, but not limited to, any base, military airport, camp, post, station, yard, center, homeport facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense.

(B) Covers greater than 500 acres of unincorporated land, or greater than 100 acres of city incorporated land.

(3) “Military service” means any branch of the United States Armed Forces.

(4) “Special use airspace” means the land area underlying the airspace that is designated for training, research, development, or evaluation for a military service, as that land area is established by the United States Department of Defense Flight Information Publication, “Area Planning: Special Use Airspace: North and South America (AP/1A)” published by the United States National Imagery and Mapping Agency.

(b) If the United States Department of Defense or a military service notifies a lead agency of the contact office and address for the military service and the specific boundaries of a low-level flight path, military impact zone, or special use airspace, the lead agency shall submit notices, as required pursuant to Sections 21080.4 and 21092, to the military service if the project is within those boundaries and any of the following apply:

(1) The project includes a general plan amendment.



(2) The project is of statewide, regional, or areawide significance.

(3) The project is required to be referred to the airport land use commission, or appropriately designated body, pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.

(c) The requirement to submit notices imposed by this section does not apply to any of the following:

(1) Response actions taken pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(2) Response actions taken pursuant to Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code.

(3) Sites subject to corrective action orders issued pursuant to Section 25187 of the Health and Safety Code.

(d) (1) The effect or potential effect that a project may have on military activities does not itself constitute an adverse effect on the environment for the purposes of this division.

(2) Notwithstanding paragraph (1), a project's impact on military activities may cause, or be associated with, adverse effects on the environment that are subject to the requirements of this division, including, but not limited to, Section 21081. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

